

105TH CONGRESS  
1ST SESSION

# H. R. 154

To amend the Internal Revenue Code of 1986 to require governmental deferred compensation plans to maintain set asides for the exclusive benefit of participants.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. ENGEL introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to require governmental deferred compensation plans to maintain set asides for the exclusive benefit of participants.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. TRUST REQUIREMENT FOR DEFERRED COM-**  
4                       **PENSATION PLANS OF STATE AND LOCAL**  
5                       **GOVERNMENTS.**

6           (a) IN GENERAL.—Section 457 of the Internal Reve-  
7       nue Code of 1986 (relating to deferred compensation plans

1 of State and local governments and tax-exempt organiza-  
 2 tions) is amended by adding at the end the following new  
 3 subsection:

4 “(g) GOVERNMENTAL PLANS MUST MAINTAIN SET  
 5 ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

6 “(1) IN GENERAL.—A plan maintained by an  
 7 eligible employer described in subsection (e)(1)(A)  
 8 shall not be treated as an eligible deferred com-  
 9 pensation plan unless all assets and income of the  
 10 plan described in subsection (b)(6) are held in trust  
 11 for the exclusive benefit of participants and their  
 12 beneficiaries.

13 “(2) TAXABILITY OF TRUSTS AND PARTICI-  
 14 PANTS.—For purposes of this title—

15 “(A) a trust described in paragraph (1)  
 16 shall be treated as an organization exempt from  
 17 taxation under section 501(a), and

18 “(B) notwithstanding any other provision  
 19 of this title, amounts in the trust shall be in-  
 20 cludable in the gross income of participants and  
 21 beneficiaries only to the extent, and at the time,  
 22 provided in this section.

23 “(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—  
 24 For purposes of this subsection, custodial accounts  
 25 and contracts described in section 401(f) shall be

1       treated as trusts under rules similar to the rules  
2       under section 401(f).”

3       (b) CONFORMING AMENDMENT.—Paragraph (6) of  
4       section 457(b) is amended by inserting “except as pro-  
5       vided in subsection (g),” before “which provides that”.

6       **SEC. 2. EFFECTIVE DATES.**

7       (a) IN GENERAL.—Except as provided in subsection  
8       (b), the amendments made by this Act shall apply to as-  
9       sets and income described in section 457(b)(6) of the In-  
10      ternal Revenue Code of 1986 held by a plan on and after  
11      the date of the enactment of this Act.

12      (b) TRANSITION RULE.—In the case of assets and  
13      income described in subsection (a) held by a plan before  
14      the first day of the first calendar quarter beginning after  
15      the close of the first regular session of the State legisla-  
16      ture of the State in which the governmental entity main-  
17      taining the plan is located beginning after the date of the  
18      enactment of this Act, a trust need not be established by  
19      reason of the amendments made by this section before  
20      such first day. For purposes of the preceding sentence,  
21      in the case of a State that has a 2-year legislative session,  
22      each year of such session shall be deemed to be a separate  
23      regular session of the State legislature.

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